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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

{Docket No. 190325272-9537-02}

RIN 0648-XG925

Pacific Island Pelagic Fisheries; 2019 Commonwealth of the Northern Mariana Islands Bigeye Tuna Fishery; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean (WCPO) because the fishery will reach the 2019 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

DATES: Effective 12:01 a.m. local time November 4, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808-725-5176.

SUPPLEMENTARY INFORMATION: On July 17, 2019, NMFS specified a 2019 catch limit of 2,000 t of longline-caught bigeye tuna for the U.S. territories of American Samoa, Guam and

the CNMI (84 FR 34321, July 18, 2019). NMFS also authorized each territory to allocate up to 1,000 t of its 2,000 t bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The limit is effective from July 17, 2019, through December 31, 2019.

On July 18, 2019, the Western Pacific Fishery Management Council (Council), through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and the Hawaii Longline Association (HLA) dated June 13, 2019. NMFS reviewed the agreement and determined that it was consistent with the requirements at 50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws (84 FR 37592, August 1, 2019). The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819 – Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9)(i), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/HLA agreement to the CNMI, beginning on July 20, 2019. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline

fishery, including catches made by U.S. longline vessels operating under the CNMI/HLA agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 t will be reached by November 4, 2019, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/HLA agreement.

Notice of Closure and Temporary Rule

Effective 12:01 a.m. local time November 4, 2019, through December 31, 2019, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the WCPO as a result of the fishery reaching the 2019 allocation limit of 1,000 t for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/HLA agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure; that is, by November 18, 2019.

Additionally, U.S. fishing vessels operating under the CNMI/HLA agreement are also prohibited from transshipping bigeye tuna caught in the WCPO by longline gear to any

vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

However, any vessel included in the CNMI/HLA agreement that is included in a valid specified fishing agreement with another U.S. territory, may continue to transship, retain, and land bigeye tuna caught by longline gear in the WCPO. Additionally, if any such vessel is engaged in a longline fishing trip in the WCPO on November 4, 2019, that vessel would not need to return to port before November 18, 2019. NMFS would announce any subsequent valid specified fishing agreement in the **Federal Register**.

Additionally, during the effective period of the restrictions, longline-caught bigeye tuna may be retained on board, transshipped, and landed if the fish are caught by a vessel with a valid American Samoa longline permit; or if the fish are landed in the U.S. territories. In these cases, the following conditions must be met:

- (1) The fish is not caught in the U.S. exclusive economic zone (EEZ) around Hawaii;
- (2) Other applicable laws and regulations are followed;
and
- (3) The vessel has a valid permit issued under 50 CFR 660.707 or 665.801.

Classification

There is good cause under 5 U.S.C. 553(b) (B) to waive prior notice and the opportunity for public comment on this action, because it would be impracticable and contrary to public interest, as discussed below. This rule closes the U.S. longline fishery for bigeye tuna in the WCPO as a result of reaching the bigeye tuna allocation limit established by the 2019 specification for catch and allocation limits of bigeye tuna for the CNMI, and the specified fishing agreement between the Government of the CNMI and HLA dated, June 13, 2019.

NMFS forecasted that the fishery would reach the 2019 CNMI allocation limit by November 4, 2019. Fishermen have been subject to longline bigeye tuna limits in the WCPO since 2009. They have received ongoing, updated information about the 2019 catch and progress of the fishery in reaching the U.S. bigeye tuna limit via the NMFS web site, social media, and other means. The publication timing of this rule, moreover, provides longline fishermen with seven days' advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna. This action is intended to comply with regulations managing this stock, and, accordingly NMFS finds it impracticable and contrary to the public interest to have prior notice and public comment.

For the reasons stated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this temporary rule. NMFS must close the fishery to ensure that fishery does not exceed the allocation limit. NMFS implemented the catch and allocation limits for the CNMI consistent with management objectives to sustainably manage the bigeye tuna stock. Failure to close the fishery before the limit is reached would be inconsistent with bigeye tuna management objectives and in violation of Federal law.

This action is required by 50 CFR 665.819(d), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2019.

Jennifer M. Wallace,
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National Marine Fisheries Service.

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